



PATENT APPLICATION  
Q-67999

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2/26/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Pascal AGIN, et al.

Appln. No.: 10/036,356

Group Art Unit: 2681

Confirmation No.: 5474

Examiner: Gelin, J.

Filed: January 07, 2002

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FEB 25 2004

Technology Center 2600

For: A METHOD FOR IMPROVING PERFORMANCES OF A MOBILE  
RADIOCOMMUNICATION SYSTEM USING A POWER CONTROL ALGORITHM

**RESPONSE UNDER 37 C.F.R. § 1.111**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action (Paper No. 2) mailed November 21, 2003,  
Applicant respectfully requests reconsideration and withdrawal of the three statutory rejections.

Claims 17-50 are pending.

Applicant notes the allowability of dependent claims 28, 30, 33, 35, 36, 38-40 and 42 if they are rewritten in independent form; however, Applicant respectfully requests the Examiner to hold in abeyance such rewriting until the Examiner has had an opportunity to reconsider (and allow) the respective parent claims of these allowable claims.

To overcome the double-patenting rejection presented in the Office Action at page 5, paragraph 6, Applicant, while not acquiescing in this rejection, files concurrently herewith a Terminal Disclaimer (with fee) which, in essence, states that the term of the patent granted on the present application No. 10/036,356 shall not extend beyond the earlier of the expiration dates of Patent Nos. 6,337,973 and 6,549,785.

Per an agreement reached between Examiner Gelin and the undersigned attorney during a telephone interview on December 5, 2003, it was agreed that the statutory rejection on page 2, paragraph 2 of the Office Action should read as follows:

Claims 17-21, 23-27, 29, 31, 32, 34, 37, 41, 43-50 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tiedemann Jr., et al (US 6,137,840).

Applicant respectfully traverses this rejection.

This rejection based on anticipation requires that Tiedemann '840 disclose, either expressly or inherently, each limitation of each of these rejected claims, or in other words, that each of these rejected claims be readable, either expressly or inherently, on the disclosure of Tiedemann '840. Applicant respectfully submits that clearly such is **not** the case here.

More specifically, Tiedemann '840 does not disclose (or even suggest) Applicant's **parent claim 17** method step limitation:

upon the occurrence of a significant change in the required transmit power, performing a step of changing the transmit power according to a corresponding change in the required transmission quality target value.

In particular, the passage at column 3, lines 27-38, to which the Examiner refers, discloses **nothing more** than the **well-known** advantages of power control in CDMA systems or, more generally, in capacity-limited systems. This has nothing to do with Applicant's invention.

Furthermore, reading all of Tiedemann's disclosure, Applicant also does **not** find any teaching or suggestion of the above-quoted limitation of claim 1. Indeed:

(1) As disclosed in particular at column 3, lines 55-60, a base station increases its transmission power by a relatively large step which is assumed to be more than adequate under

most fading conditions, and then decreases the transmission power level at an exponentially decreasing rate.

As also disclosed at column 8, lines 34-54, to improve the response time of a closed-loop power control system, the base station assumes the worst case for deterioration of the propagation path, and increases the transmission energy by a relatively significant amount  $\Delta E$  so that the adjustment will be more than adequate, then either quickly reduces the transmission energy, or holds it for a delay period to verify that the increase has been effective, and then decreases it according to a "piecewise linear function".

On the one hand, this is **not** what is claimed in Applicant's claim 1, and on the other hand, Tiedemann does not disclose or even suggest how to set the power offset, and, in particular, does not disclose or even suggest, **contrary** to what is claimed in claim 1, to set the power offset "according to a corresponding change in the required transmission quality target value".

(2) As disclosed in particular at column 4, lines 41-47 or column 10, line 55 to column 26, line 52 of Tiedemann, various embodiments are proposed for controlling transmission power in a variable rate transmission system.

However, Tiedemann discloses features necessary **only** to enable power control to be performed at each of the different transmission rates which are possible in the system, but, again **contrary** to the present invention, Tiedemann **does not even address** the problem of how power control reacts to a change in transmission rate. In particular, Tiedemann does not disclose or suggest the above-quoted limitation of claim 1, enabling power control to react to "the

occurrence of a significant change in the required transmit power" (such as, for example, the occurrence of a change in the transmission rate) in the best way.

Thus, and notwithstanding the Examiner's assertion to the contrary, it is clear that Tiedemann does not disclose (or even suggest) each limitation of Applicant's parent claim 1, or in other words, that claim 1 is not readable on Tiedemann's disclosure, whereby Applicant respectfully requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 102(b) of independent parent claim 17 and also of its dependent claims 18-21, 23-27, 29, 31, 32, 34, 37, 41 and 43-50.

Applicant also respectfully requests the Examiner to reconsider and withdraw the rejection of dependent claim 22 (22/17) under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Tiedemann '840 in view of Faber '052.

Applicant has already explained the deficiencies in Tiedemann's disclosure relative to the subject matter of independent parent claim 17. The secondary reference, Faber, is cited merely to show that "transmission quality is represented by a signal to interference ratio".

The Examiner offers the conclusory statement:

...it would have been obvious to one of ordinary skill in the art, at the time of the invention to implement the technique of Faber within the system of Tiedemann in order to avoid transmission power overshoot and increased interference at the beginning of the call acquisition between the mobile station and the base station due to the introduction of closed loop power control method (column 6, lines 27-37).

However, in view of the above-noted deficiencies in Tiedemann, even if for some reason a person were "to implement the technique of Faber with the system of Tiedemann" (as proposed

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by the Examiner), there would not be produced the subject matter of dependent claim 22 or subject matter which would have rendered claim 22 obvious.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(b) and 103, together with the double-patenting rejection, and to find the application to be in condition for allowance with all of claims 1-50; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues, and to expedite the disposition of the application.

As stated above, Applicant files concurrently herewith a Terminal Disclaimer (with fee).

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

  
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CUSTOMER NUMBER

Date: February 18, 2004